

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BRUCE LOWELL WILLIAMS,
III,

Plaintiff,

vs.

SGT. R. MORGAN,

Defendant.

NO. CV-10-5021-CI

ORDER ADOPTING REPORT AND
RECOMMENDATION, DISMISSING
COMPLAINT IN PART, AND
DIRECTING SERVICE

ACTION REQUIRED

Magistrate Judge Imbrogno filed a Report and Recommendation on March 18, 2010, recommending Mr. Williams's civil rights complaint be dismissed in part and Defendants State DOC, CUS Al Walters, CPRM Knight, C/O Willard Palmer, DOC Manager Sean Murphey, and Superintendent Mark A. Kucza, be dismissed (Ct. Rec. 7). Petitioner has filed no objections.

The court also granted Mr. Williams the opportunity to amend his complaint and he was to notify the court by April 1, 2010, of his intent to do so. The court advised if he did not so notify the court, the complaint would be dismissed in part and only his claim of insufficient protection against Defendant Sgt. R. Morgan would remain for purposes of service of process. Mr. Williams has filed nothing further.

Therefore, the court **ADOPTS** the Report and Recommendation. The complaint is **DISMISSED in part without prejudice**. The District Court Executive shall **TERMINATE** Defendants State DOC, CUS Al Walters, CPRM Knight, C/O Willard

Palmer, DOC Manager Sean Murphey, and Superintendent Mark A. Kucza. The District Court Executive shall also **REMOVE** these Defendants from the caption of the complaint.

At this time, **IT IS ORDERED:**

1. The United States Marshal, in compliance with Fed. R. Civ. P. 4(c)(2) and (d), shall send, by First Class Mail, the Summons, Complaint and this Order, upon Defendant Morgan only, together with a Notice of Lawsuit and Request for Waiver of Service of Summons, two copies of the Waiver of Service of Summons and a return envelope, postage prepaid, addressed to the sender. The costs of mailing shall be advanced by the United States.

2. The District Court Executive shall mail a copy of the Complaint to the Office of the Attorney General for the State of Washington, Criminal Justice Division.

3. Defendant shall file an answer or otherwise respond to Plaintiff's claim regarding the excessive use of force contained in the Complaint within sixty (60) days after mailing (if formal service is waived), forty-five (45) days if service is not waived. Failure to so respond may result in entry of a default judgment, pursuant to Local Rule 55.1. A Notice of Appearance is not an adequate response.

4. **The District Court Executive shall set a case management deadline sixty (60) days after the date of this Order.**

5. Plaintiff shall serve upon Defendant, or if appearance has been entered by counsel, upon his or her attorney, a copy of every further pleading or other document submitted for consideration by the court. He shall include, with the original paper to be filed with the District Court Executive, a certificate stating the date a true and correct copy of any document was mailed to the Defendant or to his or her counsel. Any paper received by a District Judge or Magistrate Judge which has not been filed with the District Court Executive or which fails to include a certificate of service will be

1 disregarded by the court. Plaintiff is also advised that, throughout this action, he must
2 notify the District Court Executive regarding any change of address and phone number
3 (at least a message phone). Failure to do so might result in the dismissal of the action if
4 the court is unable to contact Plaintiff.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order and forward a copy to Plaintiff.

7 **DATED** this 9th day of April 2010.

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13 ROSANNA MALOUF PETERSON
14 UNITED STATES DISTRICT JUDGE
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